

## REMARKS

This is a full and timely response to the final Office Action mailed August 2, 2006. Upon entry of the amendments in this response, claims 1 – 24 are pending. In particular, Applicants have amended claims 1, 5, 9, 14, 19, 21 and 23. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **I. Claims 1 – 4 and 14 - 18 are Patentable Over *White***

The Office Action rejects claims 1 – 4 and 14 - 18 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,392,664 to White ("*White*"). For the reasons set forth below, the rejection should be withdrawn and the claims allowed.

#### ***Independent Claim 1***

Applicants respectfully submit that independent claim 1, as amended, patentably defines over *White* for at least the reason that *White* fails to disclose, teach or suggest at least the features of "*storing, in a memory associated with a settop terminal (STT), a plurality of service identifiers in a first data structure, the service identifiers associated with respective definitional information regarding a plurality of television menus in which each of the television menus includes at least one television menu option*" or "*storing, in the memory associated with the STT, a plurality of channel identifiers in a second data structure, each channel identifier being associated with a pointer to one of the plurality of service identifiers that are stored in the first data structure and each channel identifier further representing a plurality of television channels available for selection by a user of the STT*" as recited in claim 1.

Rather, Applicants have reviewed the *White* disclosure and have not found any mention of storing “service identifiers” or storing “channel identifiers” at all. Thus, *White* appears to be silent with respect to any such teaching or suggestion.

For at least these reasons, Applicants submit that independent claim 1 is allowable over *White*. Furthermore, because claim 1 is believed to be allowable, dependent claims 2 – 4 are allowable for at least the same reasons.

#### ***Independent Claim 14***

Applicants respectfully submit that independent claim 14, as amended, patently defines over *White* for at least the reason that *White* fails to disclose, teach or suggest at least the feature of ***“storing, in a memory associated with the STT, a plurality of service identifiers in a first data structure, the service identifiers associated with a respective application identifier and definitional information regarding a plurality of television menus in which each television menu includes at least one television menu option, the at least one television menu option being defined for each television menu based on each television service”*** as recited in claim 14.

Rather, Applicants have reviewed the *White* disclosure and have not found any mention of storing “service identifiers” at all. Thus, *White* appears to be silent with respect to any such teaching or suggestion.

Applicants respectfully submit that independent claim 14, as amended, patently defines over *White* for at least the additional and independent reason that *White* fails to disclose, teach or suggest at least the feature of ***“responsive to receiving the input signal, identifying a television service that is currently being provided to the user via the STT, the television service being***

*provided to the user by an application identified by the respective application identifier” as recited in claim 14.*

Rather, Applicants have reviewed the *White* disclosure and have not found any mention of identifying, or even providing, a service that is “provided to the user by an application identified by the respective application identifier” at all. Thus, *White* appears to be silent with respect to any such teaching or suggestion.

For at least these reasons, Applicants submit that independent claim 14 is allowable over *White*. Furthermore, because claim 14 is believed to be allowable, dependent claims 15 – 18 are allowable for at least the same reasons.

#### ***Dependent claims 2 – 4 and 15 – 18***

Applicants submit that the §102 rejection to dependent claims 2 – 4 and 15 – 18 is rendered moot in light of any of the arguments made above and, therefore, claims 2 – 4 and 15 – 18 are allowable as a matter of law for at least the reason that claims 2 – 4 and 15 – 18 contain all the features and elements of their corresponding independent claim.

## **II. Claims 5 – 13 and 19 - 24 are Patentable Over *White* in View of *Hendricks***

The Office Action rejects claims 5 – 13 and 19 - 24 under 35 U.S.C. §103(a) as allegedly being unpatentable over *White* in view of U.S. Patent No. 6,738,978 to Hendricks (“*Hendricks*”).

#### ***Independent Claim 5***

Applicants respectfully submit that independent claim 5, as amended, patentably defines over the proposed combination of *White* and *Hendricks* for at least the reason that neither *White*, nor *Hendricks*, discloses, teaches or suggests at least the features of memory configured to store:

***“a plurality of service identifiers in a first data structure, the service identifiers associated with respective definitional information regarding a plurality of television menus in which each television menu includes at least one television menu option” or “a plurality of channel identifiers in a second data structure, each channel identifier being associated with a pointer to one of the plurality of service identifiers that are stored in the first data structure and each channel identifier further representing a plurality of television channels available for selection by a user of the client device” as recited in claim 5.***

Rather, Applicants have reviewed both the *White* and *Hendricks* disclosures and have not found any mention of storing “service identifiers” or storing “channel identifiers” at all. Thus, both the *White* and *Hendricks* disclosures appear to be silent with respect to any such teaching or suggestion.

For at least these reasons, Applicants submit that independent claim 5 is allowable over the proposed combination of *White* and *Hendricks*. Furthermore, because claim 5 is believed to be allowable, dependent claims 6 – 8 are allowable for at least the same reasons.

Additionally, Applicants respectfully traverse the finding of inherency alleged on page 3 of the Office Action. Specifically, the Office Action alleges that “regarding claims 5, 9, and 19, client terminal 14 comprises a processor or CPU 38, which controls the function of the client terminal in [sic] White system,” and therefore “it is inherent that the CPU 38 correlates each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel” (Office Action, pg. 3).

Applicants submit that, according to MPEP § 2112, section IV, "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (*Emphasis in original*, MPEP § 2112).

Here, the reasoning supplied in the Office Action for determining that the claimed feature is inherent recites that "client terminal 14 comprises a processor or CPU 38, which controls the function of the client terminal." (Office Action, pg. 3). Applicants submit that the Office Action has not met its burden in providing a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art as required by the MPEP. Applicants submit that the burden to prove that something necessarily flows from another can be difficult, and that "the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993)". (*Emphasis in original*, MPEP § 2112). Here, the statement supplied in the Office Action is simply a conclusion, apparently made in hindsight, *without* fact and/or reasoning. Accordingly, Applicants traverse the Examiner's finding of inherency for at least this additional reason.

Further, the finding of inherency apparently assumes that all client terminals that have a CPU are necessarily configured such that they correlate "each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel" (Office Action, pg. 3). However,

Applicants submit that, even assuming, *arguendo*, that the CPU 38 of *White* “controls the function of the client terminal” as alleged, this in itself is not enough to conclude that the CPU of *White* correlates “each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel” as alleged. Certainly, even assuming *arguendo* that the alleged features are disclosed by *White*, such features could be provided by other components, including components in a head-end system, for example. Accordingly, the finding of inherency is improper and the claim should be allowed for this additional and independent reason.

#### ***Independent Claim 9***

Applicants respectfully submit that independent claim 9, as amended, patently defines over the proposed combination of *White* and *Hendricks* for at least the reason that neither *White*, nor *Hendricks*, discloses, teaches or suggests at least the features of “***memory configured to store: a plurality of service identifiers in a first data structure, the service identifiers associated with a respective application identifier and definitional information regarding a plurality of television menus in which each television menu includes at least one television menu option, the at least one television menu option being defined for each television menu based on each television service***” as recited in claim 9.

Rather, Applicants have reviewed both the *White* and *Hendricks* disclosures and have not found any mention of storing “service identifiers” at all. Thus, both the *White* and *Hendricks* disclosures appear to be silent with respect to any such teaching or suggestion.

Applicants respectfully submit that independent claim 9, as amended, patently defines over the proposed combination of *White* and *Hendricks* for at least the additional and independent reason that the proposed combination of *White* and *Hendricks* fails to disclose, teach or suggest at least the feature of a processor that, responsive to receiving the input signal, is configured to “***identify a television service that is currently being provided to the user, the television service being provided to the user by an application identified by the respective application identifier***” as recited in claim 9.

Rather, Applicants have reviewed both the *White* and *Hendricks* disclosures and have not found any mention of identifying, or even providing, a service that is “provided to the user by an application identified by the respective application identifier” at all. Thus, both the *White* and *Hendricks* disclosures appear to be silent with respect to any such teaching or suggestion.

For at least these reasons, Applicants submit that independent claim 9 is allowable over the proposed combination of *White* and *Hendricks*. Furthermore, because claim 9 is believed to be allowable, dependent claims 10 – 13 are allowable for at least the same reasons.

Additionally, Applicants respectfully traverse the finding of inherency alleged on page 3 of the Office Action. Specifically, the Office Action alleges that “regarding claims 5, 9, and 19, client terminal 14 comprises a processor or CPU 38, which controls the function of the client terminal in [sic] White system,” and therefore “it is inherent that the CPU 38 correlates each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel” (Office Action, pg. 3).

Applicants submit that, according to MPEP § 2112, section IV, "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (*Emphasis in original*, MPEP § 2112).

Here, the reasoning supplied in the Office Action for determining that the claimed feature is inherent recites that "client terminal 14 comprises a processor or CPU 38, which controls the function of the client terminal." (Office Action, pg. 3). Applicants submit that the Office Action has not met its burden in providing a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art as required by the MPEP. Applicants submit that the burden to prove that something necessarily flows from another can be difficult, and that "the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993)". (*Emphasis in original*, MPEP § 2112). Here, the statement supplied in the Office Action is simply a conclusion, apparently made in hindsight, *without* fact and/or reasoning. Accordingly, Applicants traverse the Examiner's finding of inherency for at least this additional reason.

Further, the finding of inherency apparently assumes that all client terminals that have a CPU are necessarily configured such that they correlate "each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel" (Office Action, pg. 3). However,



Applicants submit that, even assuming, *arguendo*, that the CPU 38 of *White* “controls the function of the client terminal” as alleged, this in itself is not enough to conclude that the CPU of *White* correlates “each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel” as alleged. Certainly, even assuming *arguendo* that the alleged features are disclosed by *White*, such features could be provided by other components, including components in a head-end system, for example. Accordingly, the finding of inherency is improper and the claim should be allowed for this additional and independent reason.

#### ***Independent Claim 19***

Applicants respectfully submit that independent claim 19, as amended, patently defines over the proposed combination of *White* and *Hendricks* for at least the reason that neither *White*, nor *Hendricks*, discloses, teaches or suggests at least the features of memory configured to store: ***“a plurality of service identifiers in a first data structure, the service identifiers associated with respective definitional information regarding a plurality of television menus in which each television menu includes at least one television menu option” or “a plurality of channel identifiers in a second data structure, each channel identifier being associated with a pointer to one of the plurality of service identifiers that are stored in the first data structure and each channel identifier further representing a plurality of television channels available for selection by a user of the client device”*** as recited in claim 19.

Rather, Applicants have reviewed both the *White* and *Hendricks* disclosures and have not found any mention of storing “service identifiers” or storing “channel identifiers” at all. Thus,

both the *White* and *Hendricks* disclosures appear to be silent with respect to any such teaching or suggestion.

For at least these reasons, Applicants submit that independent claim 19 is allowable over the proposed combination of *White* and *Hendricks*. Furthermore, because claim 19 is believed to be allowable, dependent claim 20 is allowable for at least the same reasons.

Additionally, Applicants respectfully traverse the finding of inherency alleged on page 3 of the Office Action. Specifically, the Office Action alleges that “regarding claims 5, 9, and 19, client terminal 14 comprises a processor or CPU 38, which controls the function of the client terminal in [sic] White system,” and therefore “it is inherent that the CPU 38 correlates each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel” (Office Action, pg. 3).

Additionally, Applicants respectfully traverse the finding of inherency alleged on page 3 of the Office Action. Specifically, the Office Action alleges that “regarding claims 5, 9, and 19, client terminal 14 comprises a processor or CPU 38, which controls the function of the client terminal in [sic] White system,” and therefore “it is inherent that the CPU 38 correlates each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel” (Office Action, pg. 3).

Applicants submit that, according to MPEP § 2112, section IV, "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to

reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (*Emphasis in original*, MPEP § 2112).

Here, the reasoning supplied in the Office Action for determining that the claimed feature is inherent recites that "client terminal 14 comprises a processor or CPU 38, which controls the function of the client terminal." (Office Action, pg. 3). Applicants submit that the Office Action has not met its burden in providing a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art as required by the MPEP. Applicants submit that the burden to prove that something necessarily flows from another can be difficult, and that "the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993)". (*Emphasis in original*, MPEP § 2112). Here, the statement supplied in the Office Action is simply a conclusion, apparently made in hindsight, *without* fact and/or reasoning. Accordingly, Applicants traverse the Examiner's finding of inherency for at least this additional reason.

Further, the finding of inherency apparently assumes that all client terminals that have a CPU are necessarily configured such that they correlate "each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel" (Office Action, pg. 3). However, Applicants submit that, even assuming, *arguendo*, that the CPU 38 of *White* "controls the function of the client terminal" as alleged, this in itself is not enough to conclude that the CPU of

*White* correlates “each menu of the plurality of menus to each corresponding television viewer channel respective its interactive television service, and provides corresponding television menu of the plurality of menus including menu options(s) that corresponds to a particular selected television channel” as alleged. Certainly, even assuming *arguendo* that the alleged features are disclosed by *White*, such features could be provided by other components, including components in a head-end system, for example. Accordingly, the finding of inherency is improper and the claim should be allowed for this additional and independent reason.

### ***Independent Claim 21***

Applicants respectfully submit that independent claim 21, as amended, patently defines over the proposed combination of *White* and *Hendricks* for at least the reason that neither *White*, nor *Hendricks*, discloses, teaches or suggests at least the features of means for storing: “***a plurality of service identifiers in a first data structure, the service identifiers associated with respective definitional information regarding a plurality of television menus in which each television menu includes at least one television menu option***” or “***a plurality of channel identifiers in a second data structure, each channel identifier being associated with a pointer to one of the plurality of service identifiers that are stored in the first data structure and each channel identifier further representing a plurality of television channels available for selection by a user of the client device***” as recited in claim 21.

Rather, Applicants have reviewed both the *White* and *Hendricks* disclosures and have not found any mention of storing “service identifiers” or storing “channel identifiers” at all. Thus, both the *White* and *Hendricks* disclosures appear to be silent with respect to any such teaching or suggestion.

For at least these reasons, Applicants submit that independent claim 21 is allowable over the proposed combination of *White* and *Hendricks*. Furthermore, because claim 21 is believed to be allowable, dependent claim 22 is allowable for at least the same reasons.

### ***Independent Claim 23***

Applicants respectfully submit that independent claim 23, as amended, patently defines over the proposed combination of *White* and *Hendricks* for at least the reason that neither *White*, nor *Hendricks*, discloses, teaches or suggests at least the features of ***“means for storing a plurality of service identifiers in a first data structure, the service identifiers associated with a respective application identifier and definitional information regarding a plurality of television menus in which each television menu includes at least one television menu option, the at least one television menu option being defined for each television menu based on each television service”*** as recited in claim 23.

Rather, Applicants have reviewed both the *White* and *Hendricks* disclosures and have not found any mention of storing “service identifiers” at all. Thus, both the *White* and *Hendricks* disclosures appear to be silent with respect to any such teaching or suggestion.

Applicants respectfully submit that independent claim 23, as amended, patently defines over the proposed combination of *White* and *Hendricks* for at least the additional and independent reason that the proposed combination of *White* and *Hendricks* fails to disclose, teach or suggest at least the feature of means, responsive to the input signal, for ***“identifying a television service that is currently being provided to the user, the television service being provided to the user by an application identified by the respective application identifier”*** as recited in claim 23.

Rather, Applicants have reviewed both the *White* and *Hendricks* disclosures and have not found any mention of identifying, or even providing, a service that is “provided to the user by an application identified by the respective application identifier” at all. Thus, both the *White* and *Hendricks* disclosures appear to be silent with respect to any such teaching or suggestion.

For at least these reasons, Applicants submit that independent claim 23 is allowable over the proposed combination of *White* and *Hendricks*. Furthermore, because claim 23 is believed to be allowable, dependent claim 24 is allowable for at least the same reasons.

***Dependent claims 6 – 8, 10 – 13, 20, 22, and 24***

Applicants submit that the §103 rejection to dependent claims 6 – 8, 10 – 13, 20, 22, and 24 is rendered moot in light of any of the arguments made above and, therefore, claims 6 – 8, 10 – 13, 20, 22, and 24 are allowable as a matter of law for at least the reason that claims 6 – 8, 10 – 13, 20, 22, and 24 contain all the features and elements of their corresponding independent claim.

**III. Miscellaneous Issues**

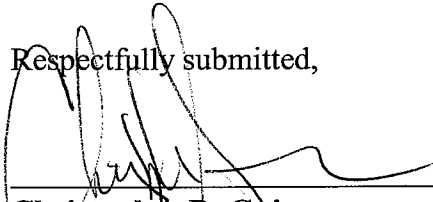
Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

## CONCLUSION

The Applicants respectfully submit that all claims are now in condition for allowance, and requests that the Examiner pass this application to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 20-0778.

Respectfully submitted,



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**Christopher D. Guinn**  
Reg. No. 54,142

**THOMAS, KAYDEN,**  
**HORSTEMEYER & RISLEY, L.L.P.**  
Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500